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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604-1758-02]

RIN 0648-XE406

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2016 Commercial Run-Around Gillnet Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) through this temporary rule for commercial harvest of king mackerel in the Florida west coast southern subzone of the eastern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) using run-around gillnet gear. NMFS has determined that the commercial annual catch limit (ACL; commercial quota) for king mackerel using run-around gillnet gear in the Florida west coast southern subzone of the Gulf EEZ will be reached by March 11, 2016. Therefore, NMFS closes the Florida west coast southern subzone to

commercial king mackerel fishing using run-around gillnet gear in the Gulf EEZ. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective from 12:01 p.m., eastern standard time, March 11, 2016, until 6 a.m., eastern standard time, January 17, 2017.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail: *susan.gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Gulf migratory group king mackerel's Florida west coast subzone of the Gulf eastern zone is divided into northern and southern subzones, each with separate

commercial quotas. From November 1 through March 31, the southern subzone encompasses an area of the EEZ south of a line extending due west of the Lee and Collier County, FL, boundary on the Florida west coast, and south of a line extending due east of the Monroe and Miami-Dade County, FL, boundary on the Florida east coast, which includes the EEZ off Collier and Monroe Counties, FL. From April 1 through October 31, the southern subzone is reduced to the EEZ off Collier County, and the EEZ off Monroe County becomes part of the Atlantic migratory group area (50 CFR 622.369(a)(1)(ii)(A)(2)).

The commercial quota for the Gulf migratory group king mackerel in the Florida west coast southern subzone is 551,448 lb (250,133 kg) for vessels using run-around gillnet gear (50 CFR 622.384(b)(1)(i)(B)(1)), for the current fishing year, July 1, 2015, through June 30, 2016.

Regulations at 50 CFR 622.8(b) and 622.388(a)(1) require NMFS to close any segment of the king mackerel commercial sector when its quota has been reached, or is projected to be reached, by filing a notification with the Office of the Federal Register. NMFS has determined that the commercial quota of 551,448 lb (250,133 kg) for Gulf group king mackerel for vessels using run-around gillnet

gear in the Florida west coast southern subzone will be reached by March 11, 2016. Accordingly, commercial fishing using such gear in the Florida west coast southern subzone is closed at 12:01 p.m., eastern standard time, March 11, 2016, until 6 a.m., eastern standard time, January 17, 2017, the beginning of the next fishing season, *i.e.*, the day after the 2017 Martin Luther King, Jr. Federal holiday. Accordingly, the operator of a vessel that has been issued a Federal commercial permit to harvest Gulf migratory group king mackerel using run-around gillnet gear in the Florida west coast southern subzone must have landed ashore and bartered, traded, or sold such king mackerel prior to 12:01 p.m., eastern standard time, March 11, 2016.

Persons aboard a vessel for which a commercial permit for king mackerel has been issued, except persons who also possess a king mackerel gillnet permit, may fish for or retain Gulf group king mackerel harvested using hook-and-line gear in the Florida west coast southern subzone unless the commercial quota for hook-and-line gear has been met and the hook-and-line segment of the commercial sector has been closed. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory

pelagic fish may continue to retain king mackerel in or from closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel harvested using run-around gillnet gear in the Florida west coast southern subzone may not be purchased or sold. This prohibition does not apply to king mackerel harvested using run-around gillnet gear in the Florida west coast southern subzone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(b) and 622.388(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the segment of the fishery that uses run-around gillnet gear constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary, because the rule implementing the commercial quota and the associated requirement for closure of the commercial harvest when the commercial quota is reached or projected to be reached has already been subject to notice and comment, and all that remains is to notify the public of the closure. Prior notice and

opportunity for public comment is contrary to the public interest, because any delay in the closure of the commercial harvest could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the king mackerel resource, because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment on this action would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 7, 2016

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.